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TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

Application Number	10/687,454
Filing Date	October 26, 2003
First Named Inventor	HOMA
Art Unit	1731
Examiner Name	Queenie S. Dehghan
Attorney Docket Number	073103-1

ENCLOSURES (Check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form <input checked="" type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/ Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input checked="" type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Return Receipt Postcard Express Mail Certificate of Mailing
Remarks		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	Wendy W. Koba, Esq.		
Signature			
Printed name	Wendy W. Koba		
Date	August 28, 2007	Reg. No.	30509

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EXPRESS MAIL
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Patent Application for:

Applicants: Daniel Scott HOMA

Atty. No: 073103-1

Title: Hydrogen Resistant Optical Fiber Formation Technique

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Effective on 12/08/2004.

Changes pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

FEE TRANSMITTAL

For FY 2007

 Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$ 500.00)

Complete if Known

Application Number	10/687,454
Filing Date	October 16, 2003
First Named Inventor	HOMA
Examiner Name	Queenie S. Dehghan
Art Unit	1731
Attorney Docket No.	073103-1

METHOD OF PAYMENT (check all that apply)

Check Credit Card Money Order None Other (please identify): _____

Deposit Account Deposit Account Number: 020429 Deposit Account Name: Baker Hughes Inc.

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

<input checked="" type="checkbox"/> Charge fee(s) indicated below	<input type="checkbox"/> Charge fee(s) indicated below, except for the filing fee
<input type="checkbox"/> Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17	<input type="checkbox"/> Credit any overpayments

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FEE CALCULATION

1. BASIC FILING, SEARCH, AND EXAMINATION FEES

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

2. EXCESS CLAIM FEES

Fee Description

Each claim over 20 (including Reissues)

Each independent claim over 3 (including Reissues)

Multiple dependent claims

Total Claims	Extra Claims	Fee (\$)	Fee Paid (\$)	Small Entity Fee (\$)	Fee (\$)
- 20 or HP =	x	=		50	25

HP = highest number of total claims paid for, if greater than 20.

Indep. Claims	Extra Claims	Fee (\$)	Fee Paid (\$)	Multiple Dependent Claims	Fee (\$)	Fee Paid (\$)
- 3 or HP =	x	=				

HP = highest number of independent claims paid for, if greater than 3.

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
- 100 =	/ 50 =	(round up to a whole number) x		=

4. OTHER FEE(S)

Non-English Specification, \$130 fee (no small entity discount)

Other (e.g., late filing surcharge): Brief on Appeal \$500.00

SUBMITTED BY

Signature	<i>Wendy W. Koba</i>	Registration No. (Attorney/Agent) 30509	Telephone 610-346-7112
Name (Print/Type)	Wendy W. Koba		Date August 28, 2007

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**IN THE UNITED STATES
PATENT AND TRADEMARK OFFICE**

Patent Application

Inventor(s) Daniel Scott Homa

Case 073103-1 **Conf. No.** 8739

Serial No. 10/687,454 **Group Art Unit** 1731

Filing Date October 16, 2003

Examiner Queenie S. Dehghan

Title Hydrogen Resistant Optical Fiber Formation Technique

**COMMISSIONER FOR PATENTS
ALEXANDRIA, VA 22313**

SIR:

BRIEF ON APPEAL

I. INTRODUCTION

Appellant submits this Brief on Appeal in support of a Notice of Appeal filed June 29, 2007, the Notice of Appeal having been filed upon receipt of a Final Office Action from the Examiner dated June 1, 2007 affirming the final rejection of pending claims 1-20.

II. REAL PARTY IN INTEREST

Luna Energy, LLC is the real party in interest by virtue of an Assignment recorded in the United States Patent and Trademark Office on October 16, 2003.

III. RELATED APPEALS AND INTERFERENCES

This is the first appeal in the above-identified application.

IV. STATUS OF CLAIMS

Claims 1-20 are pending in this application and all stand rejected. The final rejection of claims 1-20 is being appealed

V. STATUS OF AMENDMENTS

No amendments have been filed subsequent to the receipt of the final rejection.

VI. SUMMARY OF CLAIMED SUBJECT MATTER

The following is a concise explanation of the subject matter as defined in independent claim 1, referring to the specification by page and line number, and the associated drawings. In particular, reference is made to the specification at page 2, line 28 (i.e., paragraph [0009]) where it states:

An initial unsintered porous soot is first formed on the inner surface of a preform tube. The unsintered soot can be deposited by a method similar to that used for solution doping of a fiber preform, where an extremely porous, unsintered soot is subsequently used as a “sponge” for absorbing a liquid dopant. In the process of the present invention, the extremely porous unsintered soot is then subjected to a flow of a metal halide (e.g., SiCl₄) in an environment of, for example, He and/or N₂ for a predetermined period of time. *Importantly, no oxygen is present during this flow process.* The resulting structure is then sintered in a SiCl₄/He/N₂ environment to form the amorphous glass and collapsed to form the final preform structure. [emphasis added]

Reference is made to FIGs. 1-3, where the process steps in FIGs. 1 and 2 illustrate the presence of oxygen for the initial steps. In contrast, the step of the present invention related to introducing a metal halide to the unsintered soot (FIG. 3) does not include oxygen as one of the ambient gasses. The following sintering step, as illustrated in FIG. 4, likewise does not include oxygen as one of the ambient gasses.

Concise explanation of independent claim 1

Independent claim 1 is directed to a “method of making an optical preform”, and includes a step of “depositing a porous, unsintered soot layer within the inner surface of said tube” followed by a step of “exposing the porous, unsintered soot layer to a flow of a metal halide in a oxygen-free ambient for a period of time sufficient to eliminate the

presence of excess oxygen defects in said soot layer”, then following with a step of “sintering the metal halide-treated soot layer in an oxygen-free ambient to form an amorphous glass layer”. [emphasis added]

Concise explanation of independent claim 19

Independent claim 19 is directed to a “method of making an optical preform” including a step of “depositing a porous, unsintered soot layer”, followed by a step of “sintering the soot layer in an oxygen-free environment of SiCl₄, He and H₂ to form an amorphous glass layer”.

VII. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

The following is a concise statement of each ground of rejection presented for review:

- Claims 1-4, 6-7, 10-12 and 14 were rejected under 35 USC 102(e) as being anticipated by US Patent Application 2002/0150365 (Antos et al.)
- Claims 5, 8 and 9 were rejected under 35 USC 103(a) as being unpatentable over US Patent Application 2002/0150365 (Antos et al.), as applied to claim 1, in view of US Patent 6,532,774 (Zhang et al.)
- Claims 13 and 15 were rejected under 35 USC 103(a) as being unpatentable over US Patent Application 2002/0150365 (Antos et al.), as applied to claim 1, in view of JP 02180729 (Ishikawa et al.)
- Claim 16 was rejected under 35 USC 103(a) as being unpatentable over US Patent Application 2002/0150365 (Antos et al.), as applied to claim 1, in view of US Patent Publication 2003/0213268 (Homa)
- Claim 17 was rejected under 35 USC 103(a) as being unpatentable over US Patent Application 2002/0150365 (Antos et al.), as applied to claim 1, in view of US Patent 6,053,013 (Oh et al.)
- Claim 18 was rejected under 35 USC 103(a) as being unpatentable over US Patent Application 2002/0150365 (Antos et al.), as applied to claim 1, in view of US Patent 4,310,340 (Sakar)
- Claims 19 and 20 were rejected under 35 USC 103(a) as being unpatentable over US Patent Application 2002/0150365 (Antos et al.) in view of JP 02180729

(Ishikawa et al.), US Patent 5,735,921 (Araujo et al.) and US Patent 4,627,160 (Herron et al.)

VIII. ARGUMENT

A. 35 USC § 102(e) Rejection – Claims 1-4, 6-7, 10-12 and 14

The Examiner first rejected claims 1-4, 6-7, 10-12 and 14 under 35 USC 102(e) as being anticipated by US Patent Publication 2002/0150365 (Antos et al.). The Examiner refers to paragraphs [0017], [0030] and [0033] of Antos et al. as particularly teaching the subject matter of steps c) and d) (the metal halide deposition and sintering steps) of independent claim 1.

In response, appellant assert that there is no disclosure or suggestion in Antos et al. regarding the absence of oxygen during the sintering process, where the performance of this step in an “oxygen-free ambient” is a critical aspect of the present invention. Rather, Antos et al. states at paragraph [0020] that “less than a stoichiometric amount of oxygen” is present in the ambient as the preform is created. Paragraph [0034] of Antos et al. suggests that a “surplus” of oxygen should be eliminated, but does not require all that oxygen be eliminated from the ambient; the limitation of Antos et al. is to use “less than a stoichiometric amount”. The Examiner further stated (at page 6 of the *Detailed Action* in the Examiner’s final rejection) that Antos et al. “clearly provides” an example of an “oxygen free ambient” in example 2 ([0043]), “wherein only He and GeCl₄ gases are used for the treatment”.

The discovery of the present invention is resident in the finding that by using an oxygen-free ambient, the defects may be eliminated from the soot layer. Independent claim 1 positively recites this requirement in steps c) and d). Antos et al. merely suggests that the oxygen be less than a stoichiometric amount. While applicant agrees that only He and GeCl₄ are used for the “treatment” in example 2, the example clearly describes the process as occurring in a furnace and heated to 1000°, where there will be oxygen present in the ambient. It is precisely the components of the ambient that are addressed in the process of the method of the present invention, where the proper combination of (oxygen-free) ambient and flow gases that achieves the desired result of eliminating excess oxygen.

Appellant thus asserts that Antos et al. does not anticipate the inventive method of utilizing an “oxygen-free ambient” during the steps of exposing the unsintered soot to a metal halide and/or sintering the halide-treated soot. Without this teaching, Antos et al. cannot be found to anticipate independent claim 1, or claims 2-4, 6-7, 10-12 and 14.

Appellant therefore respectfully requests the Board of Appeals to reconsider these arguments, reverse the Examiner’s rejection, and find claims 1-4, 6-7, 10-12 and 14 to be in condition for allowance.

B. 35 USC § 103(a) Rejection – Claims 5, 8 and 9

Claims 5, 8 and 9 were next rejected by the Examiner under 35 USC 103(a) as being unpatentable over Antos et al. (as applied to claim 1, above), when further considered with US Patent 6,532,774 (Zhang et al.). The Examiner cited Zhang et al. as teaching “an example of MCVD where soot is deposited at a lower temperature of 1650°C”. Regardless of the teaching of Zhang et al., appellant asserts that the combination still lacks any teaching of utilizing an “oxygen-free ambient” during metal halide deposition and sintering, as required by steps c) and d) of independent claim 1 (from which claims 5, 8 and 9 depend).

Appellant therefore asserts that the combination of Zhang et al. with Antos et al. cannot be found to render obvious the subject matter of claims 5, 8 and 9 and respectfully requests the Board of Appeals to reverse the Examiner’s rejection and find these claims to be in condition for allowance.

C. 35 USC § 103(a) Rejection – Claims 13 and 15

The Examiner next rejected claims 13 and 15 under 35 USC 103(a) as unpatentable over Antos et al. (as applied to claim 1, above) when considered with Japanese Patent JP 02180729 (Ishikawa et al.), where Ishikawa et al. was cited as teaching the treatment of a “soot preform with a metal halide in the ambient of He and N₂ as well as a sintering in an ambient of He and N₂”. Various paragraphs within the Japanese reference include a reference to SiO₂ with respect to the “tube” in which the core rod is vitrified. There is no mention of an “oxygen-free ambient” in this text, or in the previously-cited Antos et al. reference.

Without this teaching, appellant asserts that the combination of Ishikawa et al. with Antos et al. cannot be found to render obvious the subject matter of claims 13 and

15. Appellant thus respectfully requests the Board of Appeals to reverse the Examiner's rejection and find these claims to be in condition for allowance.

D. 35 USC § 103(a) Rejection – Claim 16

Claim 16 was rejected under 35 USC 103(a) as being unpatentable over Antos et al., as applied to claim 1 above, in view of US Patent Application 2003/0213268 (Homa), where Homa was cited as teaching a preferred temperature to use for the sintering process. However, the combination of Antos et al. and Homa still lacks any teaching related to using an "oxygen-free ambient" in the formation of an optical fiber preform.

In light of this missing aspect of independent claim 1, appellant believes that dependent claim 16 is allowable in its dependent form and respectfully requests the Board of Appeals to reconsider and reverse the Examiner's final rejection of claim 16.

E. 35 USC § 103(a) Rejection – Claim 17

The Examiner next rejected claim 17 under 35 USC 103(a) as being unpatentable over Antos et al. (as applied to claim 1, above) in view of US Patent 6,053,013 (Oh et al.). The Examiner cited Oh et al. as teaching the collapse of the preform tube (the final formation step) in the presence of Cl₂ and He. However, the combination of Antos et al. and Oh et al. still lacks any teaching related to using an "oxygen-free ambient" in the formation of an optical fiber preform.

In light of this missing aspect of independent claim 1, appellant believes that dependent claim 17 is allowable in its dependent form and respectfully requests the Board of Appeals to reconsider and reverse the Examiner's final rejection of claim 17.

F. 35 USC § 103(a) Rejection – Claim 18

Claim 18 was rejected by the Examiner under 35 USC 103(a) as being unpatentable over Antos et al. (as applied to claim 1, above), when considered with US Patent 4,310,340 (Sakar). The Sakar reference was cited by the Examiner as teaching a preferred temperature for performing the preform tube collapse. However, the combination of Antos et al. and Sakar still lacks any teaching related to using an "oxygen-free ambient" in the formation of an optical fiber preform.

In light of this missing aspect of independent claim 1, appellant believes that dependent claim 18 is allowable in its dependent form and respectfully requests the Board of Appeals to reconsider and reverse the Examiner's final rejection of claim 18.

G. 35 USC § 103(a) Rejection – Claims 19 and 20

Lastly, the Examiner rejected independent claim 19 and its associated dependent claim 20 under 35 USC 103(a) as being unpatentable in view of Antos et al., in view of Ishikawa et al., Araujo et al. and Herron et al. However, none of these references disclose or suggest the step of “sintering the soot layer in an oxygen-free environment of SiCl₄, He and H₂ to form an amorphous glass layer” (claim 19, emphasis added), as defined in independent claim 19. Inasmuch as oxygen is present in the standard environment in which such processes are performed in the art, without an overt, affirmative step to perform the operation in an “oxygen-free environment”, appellant asserts that oxygen will indeed be present and result in the generation of defects.

Appellant thus requests the Board of Appeals to reconsider the Examiner’s findings on this point, reverse the rejection and allow claims 19 and 20 to pass to issue.

IX. CONCLUSION

For the reasons expressed above, the Examiner’s rejections of claims 1-20 under 35 USC §§ 102(e) and 103(a) are considered to lack merit and thus mandate reversal. Appellant solicits such action from the Board of Appeals at this time.

Respectfully submitted,

Daniel Homa

By: _____
Wendy W. Koba
Reg. No. 30509
Attorney for applicant
610-346-7112

Date: _____

A. CLAIMS APPENDIX

1. (previously presented) A method of making an optical preform, the method comprising the steps of:

- a) providing an optical preform tube;
- b) depositing a porous, unsintered soot layer within the inner surface of said tube;
- c) exposing the porous, unsintered soot layer to a flow of a metal halide in an oxygen-free ambient for a period of time sufficient to eliminate the presence of excess oxygen defects in said soot layer;
- d) sintering the metal halide-treated soot layer in an oxygen-free ambient to form an amorphous glass layer; and
- e) collapsing said sintered preform tub of step d) to form a solid core optical fiber preform.

2. (original) The method as defined in claim 1 wherein prior to performing step b), one or more cladding layers are deposited on the inner surface of the preform tube provided in step a).

3. (original) The method as defined in claim 2, wherein the one or more cladding layers comprise a depressed-index cladding.

4. (previously presented) The method as defined in claim 3, wherein one or more fluorine-doped cladding layers are deposited.

5. (original) The method as defined in claim 1 wherein in performing step b), the soot is deposited using a low temperature process.

6. (original) The method as defined in claim 1 wherein in performing step b), the deposit soot comprises SiO₂.

7. (previously presented) The method as defined in claim 6 wherein in performing step b), the deposited SiO₂ soot is doped with a material chosen from the group consisting of Al, Si, P, Cl, Ge, Ga, Ta, Pb, and Li.

8. (original) The method as defined in claim 5 wherein the soot deposition temperature is in the range of approximately 1400 - 1900 °C.

9. (original) The method as defined in claim 8 wherein the soot deposition temperature is maintained at a value of approximately 1650°C.

10. (original) The method as defined in claim 1 wherein in performing step c), the metal halide used is SiCl₄.

11. (original) The method as defined in claim 1 wherein in performing step c), the metal halide used is GeCl₄.

12. (original) The method as defined in claim 1 wherein in performing step c), the flow is maintained for a time period of at least ten minutes to at most ten hours.

13. (original) The method as defined in claim 1 wherein in performing step c), the metal halide treatment is performed in an ambient of He and N₂.

14. (original) The method as defined in claim 1 wherein in performing step c), the metal halide treatment is performed in a temperature range of 800 - 1500 °C.

15. (original) The method as defined in claim 1 wherein in performing step d), the sintering is performed in an ambient of He and/or N₂.

16. (original) The method as defined in claim 1 wherein in performing step d), the sintering is performed at a temperature of approximately 2200°C.

17. (original) The method as defined in claim 1 wherein in performing step e), the collapsing occurs in an ambient of Cl₂ and/or He.

18. (original) The method as defined in claim 1 wherein in performing step e), the collapsing occurs at a temperature of approximately 2200°C.

19. (previously presented) A method of making an optical preform, the method comprising the steps of:

- a) providing an optical preform tube;
- b) depositing a porous, unsintered soot layer within the inner surface of said preform tube;
- c) sintering the soot layer in an oxygen-free environment of SiCl₄, He and H₂ to form an amorphous glass layer; and
- d) collapsing said sintered, metal halide-treated preform tube of step c) to form a solid core optical fiber preform.

20. (original) The method as defined in claim 19 wherein prior to performing step b), one or more cladding layers are deposited on the inner surface of the preform tube provided in step a).

B. EVIDENCE APPENDIX

None

C. RELATED PROCEEDINGS APPENDIX

None